

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

SENATE BILL 595

**49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009**

INTRODUCED BY

George K. Munoz

AN ACT

RELATING TO TAXATION; IMPOSING A STATE LODGERS' SURTAX ON GROSS RECEIPTS OF THE HOSPITALITY INDUSTRY; CREATING FUNDS; MAKING APPROPRIATIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the Tax Administration Act is enacted to read:

"~~[NEW MATERIAL]~~ DISTRIBUTION--STATE LODGERS' SURTAX.--A distribution pursuant to Section 7-1-6.1 NMSA 1978 of the net receipts attributable to the state lodgers' surtax shall be made as follows:

A. fifty percent of the amount shall be distributed to the state lodgers' education fund;

B. thirty percent of the amount shall be distributed to the state lodgers' economic development fund;

underscoring material = new  
~~[bracketed material] = delete~~

underscored material = new  
[bracketed material] = delete

1 and

2 C. twenty percent of the amount shall be  
3 distributed to the general fund."

4 Section 2. A new section of the Gross Receipts and  
5 Compensating Tax Act is enacted to read:

6 "[NEW MATERIAL] GROSS RECEIPTS--STATE LODGERS' SURTAX.--

7 A. For the privilege of transacting business as a  
8 hotelkeeper in this state there is imposed a surtax on the  
9 gross receipts of any hotelkeeper in New Mexico. The surtax  
10 may be referred to as the "state lodgers' surtax". The state  
11 lodgers' surtax shall be imposed at a rate of ten percent on  
12 the gross receipts of a hotelkeeper. The department shall  
13 administer and enforce collection of the state lodgers' surtax  
14 pursuant to the provisions of the Tax Administration Act and  
15 the Gross Receipts and Compensating Tax Act in the same manner  
16 as the gross receipts tax.

17 B. As used in this section:

18 (1) "hotelkeeper" means a person who furnishes  
19 tourist accommodations to a renter;

20 (2) "renter" means a person to whom tourist  
21 accommodations are furnished; and

22 (3) "tourist accommodation" means a hotel,  
23 apartment, apartment hotel, apartment house, lodge, lodging  
24 house, rooming house, motor hotel, guest house, guest ranch,  
25 ranch resort, guest resort, mobile home, motor court, auto

.175427.2

underscored material = new  
[bracketed material] = delete

1 court, auto camp, trailer court, trailer camp, trailer park,  
2 tourist camp, cabin or other premises used for accommodation.

3 "Tourist accommodation" does not include:

4 (a) accommodations at religious,  
5 charitable, educational or philanthropic institutions,  
6 including summer camps operated by such institutions;

7 (b) clinics, hospitals or other medical  
8 facilities;

9 (c) privately owned and operated  
10 convalescent homes or homes for the aged, infirm, indigent or  
11 chronically ill;

12 (d) accommodations that do not have at  
13 least three rooms or other units of accommodation;

14 (e) accommodations for which a renter  
15 has paid less than two dollars (\$2.00) per day; or

16 (f) accommodations made pursuant to an  
17 agreement with a renter who has been a permanent resident of  
18 the tourist accommodation for a period of at least thirty  
19 consecutive days or a renter who enters into or has entered  
20 into a written agreement for rental of the tourist  
21 accommodation for a period of at least thirty consecutive  
22 days."

23 Section 3. [NEW MATERIAL] STATE LODGERS' EDUCATION FUND--  
24 CREATED--PURPOSE--APPROPRIATIONS.--

25 A. The "state lodgers' education fund" is created as  
.175427.2

underscored material = new  
[bracketed material] = delete

1 a nonreverting fund in the state treasury and shall be  
2 administered by the public education department. The fund  
3 shall consist of money from distributions of the state lodgers'  
4 surtax pursuant to Section 7-1-6.1 NMSA 1978 and money that is  
5 appropriated or donated or that otherwise accrues to the fund.  
6 Money in the fund shall be invested by the state investment  
7 officer in the manner that land grant permanent funds are  
8 invested pursuant to Chapter 6, Article 8 NMSA 1978. Income  
9 from investment of the fund shall be credited to the fund.

10 B. The public education department shall establish  
11 procedures and adopt rules as required to administer the fund,  
12 which shall include rules requiring that any recipient of money  
13 from the fund shall have complied with all state audit  
14 requirements, and shall require the entity to establish that it  
15 has received an unqualified audit within the past twelve  
16 months.

17 C. Money in the fund shall be disbursed only on  
18 warrant of the secretary of finance and administration upon  
19 vouchers signed by the secretary of public education or the  
20 secretary's authorized representative. Any unexpended or  
21 unencumbered balance remaining at the end of a fiscal year  
22 shall not revert to the general fund.

23 Section 4. [NEW MATERIAL] STATE LODGERS' ECONOMIC  
24 DEVELOPMENT FUND--CREATED--PURPOSE--APPROPRIATIONS.--

25 A. The "state lodgers' economic development fund" is  
.175427.2

underscoring material = new  
[bracketed material] = delete

1 created as a nonreverting fund in the state treasury and shall  
2 be administered by the economic development department. The  
3 fund shall consist of money from distributions of the state  
4 lodgers' surtax pursuant to Section 7-1-6.1 NMSA 1978 and money  
5 that is appropriated or donated or that otherwise accrues to  
6 the fund. Money in the fund shall be invested by the state  
7 investment officer in the manner that land grant permanent  
8 funds are invested pursuant to Chapter 6, Article 8 NMSA 1978.  
9 Income from investment of the fund shall be credited to the  
10 fund.

11 B. The economic development department shall  
12 establish procedures and adopt rules as required to administer  
13 the fund, which shall include rules requiring that any  
14 recipient of money from the fund shall have complied with all  
15 state audit requirements, and shall require the entity to  
16 establish that it has received an unqualified audit within the  
17 past twelve months.

18 C. Money in the fund shall be disbursed only on  
19 warrant of the secretary of finance and administration upon  
20 vouchers signed by the secretary of economic development or the  
21 secretary's authorized representative. Any unexpended or  
22 unencumbered balance remaining at the end of a fiscal year  
23 shall not revert to the general fund.

24 Section 5. EFFECTIVE DATE.--The effective date of the  
25 provisions of this act is January 1, 2010.

.175427.2